

Amendment under 37 C.F.R. §1.116
Attorney Docket No. 062003
Application No. 10/567,152

REMARKS

Claims 1-5, 7 and 8 are pending in the present application. Claim 1 is herein amended. No new matter has been presented.

Support for the amendment to claim 1 is in the specification at, *e.g.*, pages 7-8 and 19.

Claim Rejections - 35 U.S.C. § 103

Claims 1-5, 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over JP 11-246728 (**JP '728**); and claims 5, 7 and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over **JP '728** in view of **Kotani** (US 5,766,751).

Favorable reconsideration is requested.

In amended claim 1, it is important that the coating material composition of the present invention contains an ethylene-vinyl alcohol copolymer (A) and montmorillonite as an inorganic layered compound (B) in a specific total amount (A) and (B) and with a specific ratio of (A)/(B) to provide a packaging material which is very transparent and has a high gas-barrier property.

Applicants respectfully submit that the ratio (A)/(B) as recited in claim 1 is critical and thus, claim 1 is non-obvious. When the prior art discloses an overlapping range, the rejection can be overcome by demonstrating the criticality of the claimed range. Criticality can be shown by evidence of unexpected results.

The Office Action stated that the specification demonstrates some evidence of improved performance with respect to the recited ratio, the showing is not commensurate in scope with the present claims. (Office Action, page 4.) However, Applicants have prepared additional data in a Declaration to provide a showing that is commensurate in scope with the present claims.

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JP '728 discloses a broad range of ratios of inorganic laminar compound to EVOH on a volume basis of 10/1 to 1/100. (Paragraph 27.) It appears that this broad range may overlap the range of the mass ratio of (A)/(B) of (30/70) to (50/50). However, the narrower mass ratio range recited in claim 1 provides unexpectedly improved results over the prior art as demonstrated in the present specification and the attached Declaration under 37 C.F.R. § 1.132.

As pointed out in Table 1 and pages 23-24 of the specification, when the content ratio of EVOH to the inorganic layered compound was higher than the range recited in claim 1, the coating material composition was not satisfactory in transparency and adhesion to the base material film (Comparative Example 1), and when the (A)/(B) ratio was lower than the range recited in claim 1, the coating material composition was not satisfactory in gas-barrier properties (Comparative Example 2). However, when the mass ratio of (A)/(B) was within the range as recited in claim 1, the gas-barrier properties, transparency and adhesion to the base material film were excellent. (*See, e.g.*, Example 1 and Experimental Examples 1 and 2 in the Declaration.)

As indicated in the Declaration, both layers obtained from the compositions of Experimental examples 1 and 2, which are within the scope of claim 1, have high transparency and high gas-barrier property even when the thickness of the layer is 0.3 μm , like Example 1 in the specification. On the other hand, Comparative Examples 1 and 2 in the specification, which are out of the scope of claim 1, can not obtain a high gas-barrier property and high transparency.

Since the recited range of the (A)/(B) ratio provides unexpected results, the recited range of the (A)/(B) ratio is critical, and thus, claim 1 is non-obvious over the cited prior art.

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For at least the foregoing reasons, claims 1-5, 7 and 8 are patentable over the cited references. Accordingly, withdrawal of the rejections of claims 1-5, 7 and 8 is hereby solicited.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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AGM/adp
Attachment: Declaration under 37 C.F.R. § 1.132